

REMARKS

Applicant thanks the Examiner for the thorough consideration given the present application. Claim 2 was previously cancelled. Claims 1 and 3-23 are pending. Claims 1, 8, 11, 12, 18 and 21 are amended, and claims 22 and 23 are added. Claims 1, 11 and 21 are independent. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

Rejection Under 35 U.S.C. § 102(b)

Claims 1, 7, 9-12, 19 and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hoeptner III (U.S. Patent 4,955,193),

claims 3, 4, 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoeptner III in view of design choice,

claims 5, 6, 15 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoeptner III in view of Wolf et al. (U.S. Patent 5,816,043), and

claims 8, 18 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoeptner III in view of Dodge (U.S. Patent 2,651,094).

These rejections are respectfully traversed.

Amendments to Independent Claims 1, 11 and 21

As noted above, and while not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the present application, independent claim 1

has been amended to recite a combination of elements directed to a heat shield for a vehicle, including *inter alia*

the gap provides an opening facing toward a front side of the vehicle so that travel wind from the front side of the vehicle passes through the gap between the first and second heat shield plates.

In addition, independent claim 11 has been amended to recite a combination of elements directed to a heat shield for a vehicle, including *inter alia*

a rear end section of the first heat shield plate is in direct contact with the exhaust member and a front end section of the second heat shield plate is separated from the exhaust system, thereby forming a gap between the rear end section of the first heat shield plate and the front end section of the second heat shield plate,

wherein the gap provides an opening facing toward a front side of the vehicle so that travel wind from the front side of the vehicle passes through a gap between the first and second heat shield plates.

Further, independent claim 21 has been amended to recite a combination of elements directed to a heat shield for a vehicle, including *inter alia*

the attachment fixture separating the second heat shield member from the exhaust system member and providing a space between the second heat shield plate and the exhaust system member along an entire length of the second heat shield member through which air passes from front to back during travel.

Support for the novel combinations of element set forth in independent claims 1, 11 and 21 can be seen in FIG. 12 as originally filed.

By contrast, as can be seen in Hoeptner III, this document merely discloses individually adjustable members 13, and as can be seen in the fragmentary view of FIG. 4(b), the only gap between adjoining ones of the members 13 is the closed ring shaped space (not numbered) between two adjoining members. As can be seen in Hoeptner III FIG. 3, there is no “gap provides an opening facing toward a front side of the vehicle so that travel wind from the front side of the vehicle passes though a gap between the first and second heat shield plates”, as required by each of claims 1 and 11 of the present invention.

Further, as can be seen in Hoeptner III FIG. 3, this document cannot teach or suggest “the attachment fixture separating the second heat shield member from the exhaust system member and providing a space between the second heat shield plate and the exhaust system member along an entire length of the second heat shield member through which air passes from front to back during travel”, as required in claim 21 of the present invention.

Regarding secondary reference Dodge, this reference was cited merely to disclose a band clip and bolt, and cannot make up for the deficiency of Hoeptner III.

At least for the reasons described above, Applicant respectfully submits that the combination of elements as set forth in each of independent claims 1, 11 and 21 is not disclosed or made obvious by the prior art of record, including Hoeptner III, and Dodge.

Accordingly, reconsideration and withdrawal of this rejection are respectfully requested. Independent claims 1, 11 and 21 are in condition for allowance.

Dependent Claims

The Examiner will note that dependent claims 8, 12 and 18 have been amended, and dependent claims 22 and 23 have been added. All dependent claims are in condition for allowance due to their dependency from allowable independent claims, as well as for the additional novel limitations set forth therein.

All pending claims are now in condition for allowance.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(b) and § 103(a) are respectfully requested.

CONCLUSION

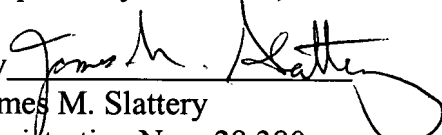
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 208-4030 (Direct Line).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Dated: October 19, 2007

Respectfully submitted,

By 
James M. Slattery
Registration No.: 28,380
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant